

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 01/30/01?
- b. The request was received on 01/25/02.

II. EXHIBITS

- a. TWCC 60 and Letter Requesting Dispute Resolution dated 03/15/02
 - b. HCFA-1450s/UB-92s
 - c. EOBs
 - d. Provider marked Exhibit 1, a reimbursement log
 - e. Provider marked Exhibit 2, Kemper EOBs
 - f. Medical Records
 - g. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC 60 and Response to a Request for Dispute Resolution
 - b. HCFA-1450s/UB-92s
 - c. Audit summaries/EOBs
 - d. Carrier's payment methodology
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
 3. Per Rule 133.307 (g)(3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 04/09/02. Per Rule 133.307 (g)(4), the carrier representative signed for the copy on 04/11/02. The response from the insurance carrier was received in the Division on 04/19/02. Based on 133.307 (i) the insurance carrier's response is timely.
 4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 03/15/02 states,
"The methodology referenced by the Carrier to support the amount of reimbursement has not been applied consistently. Specifically, the attached EOBs show the Carrier's failure to provide consistent payment in accordance with its methodology."

2. Respondent: Letter dated 04/18/02 states,
“It is the carrier’s position is that its reimbursement of \$956.77 represents fair and reasonable reimbursement for the services on 01/30/01.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1&2), the only date of service eligible for review is 01/30/01.
2. The provider billed a total of \$20,176.39 on the date of service in dispute.
3. The carrier reimbursed a total of \$1,600.99 and the EOB states “No MAR/ASC reimbursement is based on fees established to be fair and reasonable in your geographical area.”
4. The amount in dispute is \$18,575.40, the difference between the billed amount and the reimbursement received.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011 (d) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

The provider has submitted reimbursement data to document what they consider inconsistent application by the carrier of the carrier’s own methodology. The provider has submitted 7 EOBs from this carrier. These indicate that the carrier paid 33.4% (low) to 100% (high) of the billed charges. The billed amount shown on these EOBs, range from \$4,250.13 (low) to \$18,734.32 (high), and are for dissimilar treatment. The dates of service on these EOBs are all dated prior to the date of service in dispute. The provider submitted their request for dispute resolution on 01/25/02, yet the most recent EOB submitted has the date of service 11/15/00. In addition, the provider has submitted a reimbursement log of other EOBs. This list shows the date of service, the amount billed, amount reimbursed, percentage of the billed amount reimbursed, and the payer of the bill. The list shows a wide range in the amount billed and in the amount of reimbursement received as a percentage. The list contains no references to the treatments/services performed.

The Carrier has also submitted reimbursement data to document what they consider fair and reasonable reimbursement, and to comply with Commission Rule 133.304 (i)(1-4). The carrier’s methodology incorporates information from 6 different states that have adopted a system to determine ASC charges based on intensity levels. The range is from 1 (low) to 8 (high),

determined based on where the CPT code falls in the HCFA intensity grouper list. The carrier averaged the payments in each level for the 6 states and designed this as the base fee for each intensity level. The carrier also takes into account local economic factors and applies HCFA's wage index factor to the base fees. If the specific area is not addressed in the wage index, the carrier uses the state average. Any extraordinary supply costs and lab tests are reimbursed as well, above and beyond the base fee and wage index.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine, based on the parties' submission of information, what best represents fair and reasonable reimbursement. The documentation submitted by the Requestor is not as persuasive as the methodology used by the carrier, which also conforms to the additional criteria of Sec. 413.011(d) of the Texas Labor Code, "Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical care cost control." Therefore, no additional reimbursement is recommended.

The above Findings and Decision are hereby issued this 13th day of May 2002.

Larry Beckham
Medical Dispute Resolution Officer
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.